

ROBERT J. BURKHILL

IBLA 76-771

Decided November 12, 1976

Appeal from decision of the New Mexico State Office, Bureau of Land Management, rejecting oil and gas lease offer NM 25019, filed on a drawing entry card.

Affirmed.

1. Oil and Gas Leases: Applications: Drawings

A simultaneous oil and gas lease offer is properly rejected where the offeror, in preparing the drawing entry card, did not complete the date in the space provided for it on the card.

APPEARANCES: R. Hugo C. Cotter, Esq., Albuquerque, New Mexico, for appellant.

OPINION BY ADMINISTRATIVE JUDGE RITVO

This appeal by Robert J. Burkhill is from a decision of the New Mexico State Office, Bureau of Land Management, dated August 12, 1976, which rejected his oil and gas lease offer NM 25019 because he had failed to complete the date on his drawing card. ^{1/}

Appellant's offer is dated "Feb-19" and was filed for Parcel No. 603 in the February 1975 list of lands available for leasing.

^{1/} As appellant points out in his statement of reasons for appeal, the State Office decision incorrectly gives the date of the notice of lands available for filings as February 17, 1976, and the date of the drawing as March 9, 1976, whereas examination of the case file shows that both of these events actually took place in 1975. However, the typographical errors in the decision are irrelevant to a proper disposition of this case. The delay in adjudication was due to an appeal taken from another card drawn first in the drawing.

The offer was drawn number two for Parcel No. 603 at the drawing of simultaneous filed offers held on March 12, 1975.

[1] The Board just recently considered virtually the same fact situation as in the case at hand in Helen E. Ferris, 26 IBLA 382 (1976), in which the offer was dated "Mar. '76," thus, omitting the day of the month. The Board ruled that the simultaneous oil and gas entry card (Form 3112-1, May 1974) is a form designed to insure compliance with the requirements of the regulations regarding qualifications. When it is completed, signed, and dated, it contains a statement of qualifications certified to by the applicant. This is one reason why the regulations require that the form be signed and fully executed. 43 CFR 3112.2-1(a). The failure of the appellant properly to date the application requires rejection of the lease offer. Id. at 383. See also Amy H. Hanthorn, 27 IBLA 369 (1976), for other cases holding that strict compliance is required.

Appellant contends that the "date" on a filing card does not go to the validity of the offer to lease itself but relates to whether or not the offeror properly meets the qualifications shown on the reverse side of the card. As support, he cites Ray Flamm, 24 IBLA 10 (1976), in which an offer was rejected because it was postdated, which was considered to be postdating of the offeror's certificate that he was the sole party in interest in the offer. He states that no postdating occurred in the case at hand, that he properly certified as to the items on the card by signing it, and that there can be no doubt from the face of the card as to the day, month and year in which this was done.

In Ray Flamm, supra, this Board did not say or intimate that the "date" on an entry card does not go to the validity of the offer to lease itself. On the contrary, we said:

This Board has recently held, in Thomas Buckmann, 23 IBLA 21 (1975), that failure to sign the entry card mandates rejection of the lease offer. As we noted "the signing of the card is the certification of all other statements made on the card." Id. at 22. In like manner, postdating of the card renders the signature ineffective as of the time of its submission.

Rejection under these circumstances is required.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Martin Ritvo
Administrative Judge

We concur.

Joan B. Thompson
Administrative Judge

Douglas E. Henriques
Administrative Judge

